

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LANI SUSAN BORGWARDT  
801 Stannage, Apt. 2  
Albany, CA 94706

Registered Nurse License No. 397667  
Public Health Certificate No. 41584

Respondent

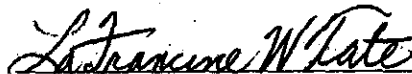
Case No. 2006-107

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on August 19, 2006

IT IS SO ORDERED July 19, 2006.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JONATHAN D. COOPER, State Bar No. 141461  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
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6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2006-107

11 **LANI SUSAN BORGWARDT**

OAH No. 2006020620

12 801 Stannage, Apt. 2  
13 Albany, CA 94706

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Registered Nurse License Number 397667  
Public Health Certificate Number 41584

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
22 represented in this matter by Bill Lockyer, Attorney General of the State of California, by  
23 Jonathan D. Cooper, Deputy Attorney General.

24 2. Respondent Lani Susan Borgwardt (Respondent) is represented in this  
25 proceeding by attorney Deborah Phillips, whose address is 1999 Harrison Street, Suite 2000,  
26 Oakland, CA, 94612-3582.

27 3. On or about March 31, 1986, the Board of Registered Nursing issued  
28 Registered Nurse License No. 397667 to Lani Susan Borgwardt (Respondent). The License was

1 in full force and effect at all times relevant to the charges brought in Accusation No. 2006-107  
2 and will expire on January 31, 2008, unless renewed.

3 4. In addition to her Registered Nurse license, Respondent holds Public  
4 Health Nurse Certificate Number 41584.

#### 5 JURISDICTION

6 5. Accusation No. 2006-107 was filed before the Board of Registered  
7 Nursing (Board) , Department of Consumer Affairs, and is currently pending against Respondent.  
8 The Accusation and all other statutorily required documents were properly served on Respondent  
9 on January 18, 2006. Respondent timely filed her Notice of Defense contesting the Accusation.  
10 A copy of Accusation No. 2006-107 is attached as exhibit A and incorporated herein by  
11 reference.

#### 12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and  
14 understands the charges and allegations in Accusation No. 2006-107. Respondent has also  
15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
16 Settlement and Disciplinary Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the  
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
19 counsel at her own expense; the right to confront and cross-examine the witnesses against her;  
20 the right to present evidence and to testify on her own behalf; the right to the issuance of  
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
22 reconsideration and court review of an adverse decision; and all other rights accorded by the  
23 California Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up  
25 each and every right set forth above.

#### 26 CULPABILITY

27 7. All admissions of facts and conclusions of law contained in this stipulation  
28 are made exclusively for this proceeding and any future proceedings between the Board and

respondent, or between respondent and any other licensing agency in the State of California, and shall not be deemed to be admissions for any purpose in any other administrative, civil or criminal action, forum or proceeding.

8. Respondent's license history and status as set forth at paragraphs 3 and 4 of the Accusation are true and correct. Respondent's address of record is current and accurate as set forth in the caption of this Stipulation.

9. For the purpose of settlement and compromise of the instant proceeding before the Board only, and not for any other purpose in any other civil or criminal matter, except in proceedings before the Board of Registered Nursing or any other professional licensing agency in the State of California, respondent stipulates that said charges and allegations, if proved, would constitute cause for imposing discipline upon respondent's registered nursing license heretofore issued by the Board.

10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

12. In consideration for entering into this stipulated agreement (“Agreement”), respondent hereby waives any right to challenge the legal effect of this Agreement, by way of petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any other legal claim or defense, which he may have asserted, including, but not limited to, any time based claim such as laches, in the event it is necessary to calendar an administrative hearing based on any part of or all of Accusation No. 2006-107.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
3 action between the parties, and the Board shall not be disqualified from further action by having  
4 considered this matter.

5 12. The parties understand and agree that facsimile copies of this Stipulated  
6 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
7 force and effect as the originals.

8 13. In consideration of the foregoing admissions and stipulations, the parties  
9 agree that the Board may, without further notice or formal proceeding, issue and enter the  
10 following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Registered Nurse License No. 397667 issued to  
13 Respondent Lani Susan Borgwardt (Respondent) is revoked. However, the revocation is stayed  
14 and Respondent is placed on probation for three (3) years on the following terms and conditions.

15 **Severability Clause.** Each condition of probation contained herein is a separate  
16 and distinct condition. If any condition of this Order, or any application thereof, is declared  
17 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
18 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
19 and enforceable to the fullest extent permitted by law.

20 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
21 A full and detailed account of any and all violations of law shall be reported by Respondent to  
22 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
23 compliance with this condition, Respondent shall submit completed fingerprint forms and  
24 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
25 as part of the licensure application process.

26 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
27 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
28 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related

1 employment with a full explanation of the circumstances surrounding the termination or  
2 separation.

3           8.       **Supervision.** Respondent shall obtain prior approval from the Board  
4 regarding Respondent's level of supervision and/or collaboration before commencing or  
5 continuing any employment as a registered nurse, or education and training that includes patient  
6 care.

7           Respondent shall practice only under the direct supervision of a registered nurse  
8 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
9 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
10 are approved.

11           Respondent's level of supervision and/or collaboration may include, but is not  
12 limited to the following:

13           (a)   Maximum - The individual providing supervision and/or collaboration is  
14 present in the patient care area or in any other work setting at all times.

15           (b)   Moderate - The individual providing supervision and/or collaboration is in  
16 the patient care unit or in any other work setting at least half the hours Respondent works.

17           (c)   Minimum - The individual providing supervision and/or collaboration has  
18 person-to-person communication with Respondent at least twice during each shift worked.

19           (d)   Home Health Care - If Respondent is approved to work in the home health  
20 care setting, the individual providing supervision and/or collaboration shall have person-to-  
21 person communication with Respondent as required by the Board each work day. Respondent  
22 shall maintain telephone or other telecommunication contact with the individual providing  
23 supervision and/or collaboration as required by the Board during each work day. The individual  
24 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
25 site visits to patients' homes visited by Respondent with or without Respondent present.

26           9.       **Employment Limitations.** Respondent shall not work for a nurse's  
27 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
28 traveling nurse, or for an in-house nursing pool.



1 Respondent shall not work for a licensed home health agency as a visiting nurse  
2 unless the registered nursing supervision and other protections for home visits have been  
3 approved by the Board. Respondent shall not work in any other registered nursing occupation  
4 where home visits are required.

5 Respondent shall not work in any health care setting as a supervisor of registered  
6 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
7 nurses and/or unlicensed assistive personnel on a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of nursing  
9 or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined  
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the  
13 Board may request documentation to determine whether there should be restrictions on the hours  
14 of work.

15 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
16 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
17 than six months prior to the end of her probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the  
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
20 completion for the above required course(s). The Board shall return the original documents to  
21 Respondent after photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
23 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
24 amount of \$5,309.00. Respondent shall be permitted to pay these costs in a payment plan  
25 approved by the Board, with payments to be completed no later than three months prior to the  
26 end of the probation term.

27 If Respondent has not complied with this condition during the probationary term,  
28 and Respondent has presented sufficient documentation of her good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
2 grant an extension of Respondent's probation period up to one year without further hearing in  
3 order to comply with this condition. During the one year extension, all original conditions of  
4 probation will apply.

5           **12. Violation of Probation.** If Respondent violates the conditions of her  
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
7 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
8 license.

9           If during the period of probation, an accusation or petition to revoke probation has  
10 been filed against Respondent's license or the Attorney General's Office has been requested to  
11 prepare an accusation or petition to revoke probation against Respondent's license, the  
12 probationary period shall automatically be extended and shall not expire until the accusation or  
13 petition has been acted upon by the Board.

14           **13. License Surrender.** During Respondent's term of probation, if she ceases  
15 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
16 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
17 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
18 take any other action deemed appropriate and reasonable under the circumstances, without  
19 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
20 will no longer be subject to the conditions of probation.

21           Surrender of Respondent's license shall be considered a disciplinary action and  
22 shall become a part of Respondent's license history with the Board. A registered nurse whose  
23 license has been surrendered may petition the Board for reinstatement no sooner than the  
24 following minimum periods from the effective date of the disciplinary decision:

25           (1) Two years for reinstatement of a license that was surrendered for any  
26 reason other than a mental or physical illness; or

27           (2) One year for a license surrendered for a mental or physical illness.

28           **14. Physical Examination.** Within 45 days of the effective date of this

1 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
2 physician assistant, who is approved by the Board before the assessment is performed, submit an  
3 assessment of the Respondent's physical condition and capability to perform the duties of a  
4 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
5 medically determined, a recommended treatment program will be instituted and followed by the  
6 Respondent with the physician, nurse practitioner, or physician assistant providing written  
7 reports to the Board on forms provided by the Board.

8           If Respondent is determined to be unable to practice safely as a registered nurse,  
9 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
10 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
11 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
12 shall immediately cease practice and shall not resume practice until notified by the Board.  
13 During this period of suspension, Respondent shall not engage in any practice for which a license  
14 issued by the Board is required until the Board has notified Respondent that a medical  
15 determination permits Respondent to resume practice. This period of suspension will not apply  
16 to the reduction of this probationary time period.

17           If Respondent fails to have the above assessment submitted to the Board within  
18 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
19 practice until notified by the Board. This period of suspension will not apply to the reduction of  
20 this probationary time period. The Board may waive or postpone this suspension only if  
21 significant, documented evidence of mitigation is provided. Such evidence must establish good  
22 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
23 provided. Only one such waiver or extension may be permitted.

24           **15. Mental Health Examination.** Respondent shall, within 45 days of the  
25 effective date of this Decision, have a mental health examination including psychological testing  
26 as appropriate to determine her capability to perform the duties of a registered nurse. The  
27 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
28 practitioner approved by the Board. The examining mental health practitioner will submit a

1 written report of that assessment and recommendations to the Board. All costs are the  
2 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
3 result of the mental health examination will be instituted and followed by Respondent.

4           If Respondent is determined to be unable to practice safely as a registered nurse,  
5 the licensed mental health care practitioner making this determination shall immediately notify  
6 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
7 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
8 practice and may not resume practice until notified by the Board. During this period of  
9 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
10 is required, until the Board has notified Respondent that a mental health determination permits  
11 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
12 probationary time period.

13           If Respondent fails to have the above assessment submitted to the Board within  
14 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
15 practice until notified by the Board. This period of suspension will not apply to the reduction of  
16 this probationary time period. The Board may waive or postpone this suspension only if  
17 significant, documented evidence of mitigation is provided. Such evidence must establish good  
18 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
19 provided. Only one such waiver or extension may be permitted.

20           **16. Therapy or Counseling Program.** Respondent, at her expense, shall  
21 participate in an on-going counseling program until such time as the Board releases her from this  
22 requirement and only upon the recommendation of the counselor. Written progress reports from  
23 the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Deborah Phillips. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 5/12/06 Lani Susan Borgwardt  
LANI SUSAN BORGWARDT (Respondent)  
Respondent

I have read and fully discussed with Respondent Lani Susan Borgwardt the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/12/06 Deborah Phillips  
DEBORAH PHILLIPS  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 5/12/06  
BILL LOCKYER, Attorney General  
of the State of California

Jonathan D. Cooper  
JONATHAN D. COOPER  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2006-107**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JONATHAN D. COOPER, State Bar No. 141461  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-1404  
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2006-107

12 LANI SUSAN BORGWARDT

OAH No.

13 801 Stannage, Apt. 2  
14 Albany, CA 94706

**A C C U S A T I O N**

15 Registered Nurse License Number 397667  
16 Public Health Certificate Number 41584

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N., Executive Officer (Complainant) brings  
20 this Accusation solely in her official capacity as the Executive Officer of the Board of Registered  
21 Nursing, Department of Consumer Affairs.

22 2. On or about March 31, 1986, the Board of Registered Nursing issued  
23 Registered Nurse License Number 397667 to Lani Susan Borgwardt (Respondent). The  
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on January 31, 2008, unless renewed.

26 3. In addition to her Registered Nurse license, Respondent holds Public  
27 Health Nurse Certificate Number 41584.  
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1 "As used in Section 2761 of the code, 'incompetence' means the lack of possession  
2 of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed  
3 and exercised by a competent registered nurse as described in Section 1443.5."

4 10. California Code of Regulations, title 16, section 1443.5 states:

5 "A registered nurse shall be considered to be competent when he/she consistently  
6 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
7 sciences in applying the nursing process, as follows:

8 "(1) Formulates a nursing diagnosis through observation of the client's physical  
9 condition and behavior, and through interpretation of information obtained from the client and  
10 others, including the health team.

11 "(2) Formulates a care plan, in collaboration with the client, which ensures that  
12 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and  
13 protection, and for disease prevention and restorative measures.

14 "(3) Performs skills essential to the kind of nursing action to be taken, explains  
15 the health treatment to the client and family and teaches the client and family how to care for the  
16 client's health needs.

17 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
18 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
19 effectively supervises nursing care being given by subordinates.

20 "(5) Evaluates the effectiveness of the care plan through observation of the  
21 client's physical condition and behavior, signs and symptoms of illness, and reactions to  
22 treatment and through communication with the client and health team members, and modifies the  
23 plan as needed.

24 "(6) Acts as the client's advocate, as circumstances require, by initiating action to  
25 improve health care or to change decisions or activities which are against the interests or wishes  
26 of the client, and by giving the client the opportunity to make informed decisions about health  
27 care before it is provided."

28 11. Section 125.3 of the Code provides, in pertinent part, that the Board may

1 request the administrative law judge to direct a licensee found to have committed a violation or  
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
3 and enforcement of the case.

#### 4 FIRST CAUSE FOR DISCIPLINE

5 (Gross Negligence)

6 12. Respondent is subject to disciplinary action under section 2761(a)(1) in  
7 that she acted with gross negligence and/or incompetence. The circumstances are as follows:

8 13. On or about July 13, 2003, Respondent was on duty as a registered nurse  
9 in the Pediatric Intensive Care unit at Children's Hospital in Oakland. Patient C.F.<sup>1</sup> was assigned  
10 to her care. Respondent attempted to prevent staff from carrying out a physician's order to place  
11 patient C.F., who was sleeping, on a ventilator. Respondent stated that she feared that the patient  
12 would wake up and require attention from her. Respondent spoke loudly to treating staff and  
13 physicians and appeared to be emotionally out of control and enraged. Respondent threatened  
14 the physician on duty that if the procedure awoke the patient, Respondent would page the  
15 physician every time the patient complained. Respondent was asked to leave the patient care  
16 area.

#### 17 SECOND CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct)

19 14. Respondent is subject to disciplinary action under section 2761(a) in that  
20 she acted unprofessionally. The circumstances are as follows:

21 15. On or about June 5, 2003, Respondent was on duty as a registered nurse in  
22 the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to  
23 care for patient N.A., a patient in the unit. While on duty, Respondent argued with patient N.A.'s  
24 mother about whether Respondent could change N.A.'s linens. Respondent stated to N.A.'s  
25 mother: "If you don't want us to take care of your child why don't you just go home."  
26

27  
28 1. Patient names are omitted to preserve the patients' privacy. Further identifying  
information will be provided to Respondent pursuant to discovery.

1 Respondent then made loud remarks about Muslims (the patient and her mother appeared to be  
2 of Arab descent) and refused to provide further treatment to N.A.

### 3 THIRD CAUSE FOR DISCIPLINE

#### 4 (Incompetence)

5 16. Respondent is subject to disciplinary action under section 2761(a)(1) in  
6 that she acted with gross negligence and/or incompetence. The circumstances are as follows:

7 17. On or about November 21, 2000, Respondent was on duty as a registered  
8 nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was  
9 assigned to care for patient N.H., a patient in the unit. While on duty, Respondent argued with  
10 N.H.'s mother about whether Respondent was improperly applying oral suctioning to N.H.  
11 Respondent stated to the patient's mother: "Fine, I won't touch him." Respondent then stopped  
12 suctioning the patient and walked away. Other nursing staff responded to N.H.'s bedside and  
13 found that N.H. was undergoing respiratory failure and required immediate intubation.  
14 Respondent had not requested help from other hospital staff in addressing the patient's  
15 respiratory distress during her treatment of the patient or before walking away.

### 16 FOURTH CAUSE FOR DISCIPLINE

#### 17 (Patient Abandonment)

18 18. Respondent is subject to disciplinary action under section 2761(a)(1) of  
19 the Code in that she acted unprofessionally when she stopped treating patient N.H. and  
20 abandoned him without assuring continued nursing care for the patient, as described above in  
21 paragraph 17.

### 22 DISCIPLINE CONSIDERATIONS

23 19. On or about April 22, 2001, Respondent was working as a registered nurse  
24 at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned  
25 to care for patient H.L. HL's physician had ordered the administration of Ativan, an anti-anxiety  
26 medication, to H.L. Respondent administered morphine, a pain-killing medication, instead.  
27 Respondent attributed this medication error to the fact that the Ativan and Morphine vials both  
28 have orange labels.

20. On about April 26, 2001, Respondent was working as a registered nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to care for patient R.A. Respondent gave R.A. an incorrect dose of medication via infusion and also gave the infusion at the rate of 55cc/hr when the physician had ordered a rate of 105cc/hr. Respondent attributed the medication error to the fact that she had forgotten to consult the patient's chart because she was busy.

21. On or about April 26, 2001, Respondent was working as a registered nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to care for patient A.W. Respondent failed to put A.W.'s chest tube to water seal, as ordered by A.W.'s physician, before A.W. underwent an x-ray. The error resulted in A.W. needing a second x-ray once the seal was done properly. Respondent attributed the mistake to the fact that she had read the chart by flashlight in a darkened room.

22. On May 14, 2002, Respondent was working as a registered nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to care for patient L.S. Respondent administered droperidol, an anti-nausea drug, to the patient without a physician's order.

23. On May 19, 2002, Respondent was working as a registered nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to care for patient N.V. Respondent failed to give N.V. a lidocaine infusion which had been prescribed by N.V.'s physician to prevent heart arrhythmia. The patient then suffered heart arrhythmias.

24. On May 19, 2002, Respondent was working as a registered nurse at the Pediatric Intensive Care unit at Children's Hospital in Oakland. Respondent was assigned to care for patient N.V. Respondent failed to check the patient's insulin infusion, thus allowing the infusion to expire contrary to the physician's order.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 397667, issued

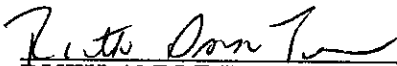
1 to Lani Susan Borgwardt;

2                   2.       Revoking or suspending Public Health Certificate Number 41584, issued  
3 to Lani Susan Borgwardt;

4                   3.       Ordering Lani Susan Borgwardt to pay the Board of Registered Nursing  
5 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
6 Professions Code section 125.3;

7                   4.       Taking such other and further action as deemed necessary and proper.  
8

9 DATED: 1/10/06  
10

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12   
13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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